



DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 153

[CMS-9954-F2]

RIN-0938-AR89

Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: In the March 11, 2014 issue of the **Federal Register** (79 FR 13744), we published a final rule entitled, “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015.” The effective date was May 12, 2014. This correcting amendment corrects a technical error identified in the March 11, 2014 final rule.

EFFECTIVE DATE: This correcting amendment is effective [OFR: Insert date of filing for public inspection].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014-0505 (79 FR 13744), the final rule entitled “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2015; Final Rule” (hereinafter referred to as the 2015 Payment Notice), there was a technical error that is identified and corrected in the regulations text of this correcting amendment.

The provision of this correcting amendment is effective [OFR: Insert date of filing for public inspection.].

II. Summary of Errors in the Regulations Text

On page 13834 in the definition of “contributing entity at 45 CFR §153.20, we inadvertently used the word “volume” instead of “value.” As detailed in the preamble of the 2015 Payment Notice (79 FR 13744, 13775), for purposes of the definition of contributing entity, “a de minimis amount means up to 5 percent, as measured by the amount of enrollment or claims processing transactions for non-pharmacy and non-excepted benefits which are outsourced, or by the value of the outsourced enrollment or claims processing transactions for non-pharmacy and non-excepted benefits (measured by the cost of the outsourced services compared to the sum of those costs plus the fully loaded costs – that is, including an appropriate share of indirect costs, such as fixed and overhead expenses – reasonably allocated, borne by the self-insured plan for such services).” Accordingly, we are revising the definition to include the correct word.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document merely corrects a technical error in the regulation text and does not change the policy set forth in the 2015 Payment Notice. Therefore, we believe that undertaking further notice and comment procedures to incorporate this correction and delay the effective date for this change is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay when they become effective. For the reasons stated previously, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correcting amendment.

List of Subjects in 45 CFR Part 153

Administrative practice and procedure, Adverse selection, Health care, Health insurance, Health records, Organization and functions (Government agencies), Premium stabilization, Reporting and recordkeeping requirements, Reinsurance, Risk adjustment, Risk corridors, Risk mitigation, State and local governments.

Accordingly, 45 CFR is corrected by making the following correcting amendment to part 153:

**PART 153—STANDARDS RELATED TO REINSURANCE, RISK CORRIDORS,
AND RISK ADJUSTMENT UNDER THE AFFORDABLE CARE ACT**

1. The authority citation for part 153 continues to read as follows:

Authority: Secs. 1311, 1321, 1341–1343, Pub. L. 111–148, 24 Stat. 119.

§153.20 [Corrected]

2. In §153.20, amend paragraph (2) of the definition of “contributing entity” by removing the word “volume” and adding in its place “value.”

Dated: June 17, 2014

C'Reda Weeden,

Executive Secretary to the

Department,

Department of Health and Human

Services.

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